



Paper No. 6

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JAN 15 2004

OFFICE OF PETITIONS

ON PETITION

In re Application of
Dukhin et al.
Application No. 09/928,014
Filed: August 3, 2001
For: Method For The Removal Of Heavy Metals
From Aqueous Solution By Means Of Silica As An
Adsorbent In Counter-Flor Selective Dialysis

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 2003, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 4, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 5, 2001. A Notice of Abandonment was mailed on November 24, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply,¹
- (2) the petition fee,
- (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) a terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Where there is a question as to whether either the abandonment or the delay in filing a petition

¹ In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

under 37 CFR 1.137 was unintentional, the Commissioner may require additional information.²

The instant petition lacks item (1). Petitioner did submit the missing declaration with the instant petition on December 12, 2003. However, as stated on the Notice mailed on October 4, 2001, to avoid abandonment, a late filing fee or oath or declaration surcharge as set forth in 37 CFR 1.16(l) of \$65 for a small entity in compliance with 37 CFR 1.27, must be submitted with the missing items. Petitioner also failed to submit the below required item:

- The Claim(s) commencing on a separate sheet (37 CFR 1.75(h)).

In order to revive the above-identified application, petitioner must submit the required item listed above, along with the \$65.00 late oath or declaration surcharge. A copy of the Notice mailed on October 4, 2001, is enclosed for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the existing Customer Window located at:

2011 South Clark Place
Crystal Plaza 1 Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is (703) 872-9306.

Telephone inquiries should be directed to Paralegal Liana Chase at (703) 306-0482.



Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Notice To File Missing Parts Of Nonprovisional Application
(Originally mailed on October 4, 2001)

² See MPEP 711.03(c)(III)(C) and (D).